

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

**Minutes
February 17, 2005
9:30 a.m.**

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Thursday, February 17, 2005 in Nashville, Tennessee at 9:30 a.m. Commissioners Harlan Mathews and Cynthia Bond were present. Although Chairman John Jones was not in attendance, a quorum was present and the meeting was held, Commissioner Mathews sat as Acting Chairman. Director Danielle Elks, Assistant Director Carolyn Smith, CLEO Mark Hutchens, SAC Mike Cawthon and ASAC Andy Woodall were present from the staff.

1. **Adoption of the Minutes for January 18, 2005 Commission Meeting were not considered.**

2. **RETAIL PACKAGE STORES:**

- A. **OLD BUSINESS**

1. **CAESAR'S WINE AND LIQUORS
Memphis, Tennessee**

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| Applicant: | Kardoush, LLC |
| Stockholders: | Charles Kardoush and Michael Kardoush |

Commissioner Mathews recused himself from any consideration in this matter citing a potential conflict of interest. Mr. William J. Haynes, III, attorney for M & J's Houston Levee Wine & Spirits—opposition to the Caesar's license—was present. David Wade was present and represented the licensee. Mr. Haynes made a motion to amend or correct the January 2005 minutes. Commissioner Bond stated that Mr. Haynes motion would not be heard because a quorum for the Commission was not present, and the motion would be continued until the March 2005 meeting. Mr. David Wade objected to the matter being held over to the March meeting because the license has already been issued and the matter should not be continually reargued. Director Elks stated that since there is not a quorum, that a formal request should be issued in order to be on the next month's meeting. Mr. Wade stated that he be given a copy of the request prior to two days before the meeting.

Director Elks stated that Commissioner Mathews is now acting as Acting Chairman and is back on the record.

**2. CORN SILK LIQUORS
Springfield, Tennessee (Robertson County)**

Applicant: Edwards and Fletcher, LLC
Stockholder: Edward Fletcher, Jr. and Donnie Ray Edwards

Before the Commission is a request for a new retail store to be located at 2800 Memorial Boulevard, in Springfield, Tennessee. Mr. Edward Fletcher, Jr. and Donnie Ray Edwards intend to initially invest \$70,000 in the business. Financing is based upon personal funds of both parties from existing businesses. All documentation has been submitted with the exception of the following:

- a. Federal Tax Stamp in LLC's name;
- b. TABC Inspection;
- c. Acknowledgement of the Rules and Regulations;
- d. Use and Occupancy Permit, and
- e. Copy of the Newspaper Notice and Affidavit.

This matter was continued when it was discovered that one of the applicants, Mr. Edwards, lived in Kentucky—thus not meeting the statute's residency requirements.

Discussion/Action Taken:

This matter was continued from the January Commission meeting because Mr. Donnie Edwards was not a Tennessee resident, but resided in Kentucky. Donnie Edwards was present. Mr. Edwards has now either purchased or will purchase or lease some land in Tennessee to establish his Tennessee residency. He had lived in Tennessee for 32 years at a prior time. Director Elks recommended approval pending the TABC Inspection, acknowledgment of the rules and regulations, Use and Occupancy, payment of \$1,500 fine and a copy of the Newspaper Notice and Affidavit. Commissioner Bond made a motion to approve the application pending the requested documents. Commissioner Mathews seconded the motion and it passed with 2 ayes.

**2. SANGO WINE AND SPIRITS
Clarksville, Tennessee (Montgomery County)**

Seller/Licensee: Matthew H. Marinko
Buyer/Applicant: Jack G. Miller, LLC
Members: Jack G. Miller

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Before the Commission is a request to transfer ownership of the retail store currently located at 1049 Highway 76, in Clarksville, Tennessee. Mr. Miller intends to purchase the establishment for \$475,000, plus inventory: this amount also includes the land and building. Mr. Miller's questionnaire indicates that financing is based upon personal funds at First Federal Savings Bank in Clarksville. All documentation has been submitted with the exception of the following:

- a. Written acknowledgement of the Rules and Regulations;
- b. Federal Tax Stamp in LLC's name;
- c. Specifics of Michael Miller's interest in a liquor license;
- d. Deed—when obtained;
- e. Clarification of source of financing for Applicant;
- f. Payment of any outstanding citations that may exist or arise.

This matter was continued when the bill of sale indicated that Robert Schutz and Mr. Marinkow were listed as the sellers of the business; however, Mr. Schutz was not disclosed to the TABC as an owner.

Discussion/Action Taken:

Matthew Marinko was present. Director Elks reviewed the application and indicated that all documentation had been submitted but for the amendment to the Federal Tax Stamp. Director Elks recommended approval pending the requested change to the Federal Tax Stamp. Commissioner Bond made a motion to approve the application pending the requested change to the Federal Tax Stamp. Commissioner Mathews seconded the motion and it was approved with 2 ayes.

B. NEW BUSINESS

1. THE LIQUOR STORE Dyersburg, Tennessee (Dyer County)

Applicant: The Liquor Store of Dyersburg, LLC
Members: Martin Moore

Before the Commission is a request for a new retail store to be located at 1697 Highway 51, North in Dyersburg, Tennessee. Mr. Martin Moore is the sole member of the applicant LLC, and intends to make an initial investment of approximately \$100,000 obtained from personal funds. All documentation has been submitted with the exception of the following:

- a. TABC Inspection.

Discussion/Action Taken:

Director Elks reviewed the application and recommended approval of the application. Commissioner Bond made a motion to approve the application pending the receipt of the TABC inspection. Commissioner Mathews seconded the motion and it was approved with 2 ayes.

**2. MAJOR DISCOUNT LIQUORS
Nashville, Tennessee (Davidson County)**

Applicant: Adry Tawfik

Before the Commission is a request for a new retail store to be located at 1021 Patio Drive in Nashville, Tennessee. Mr. Adry Tawfik makes application as a sole proprietorship, and intends to make an initial investment of approximately \$100,000. (Mr. Twafik is purchasing Major Discount Liquors from C.A. Enterprises, Inc.—the former licensee for \$10,000—including existing inventory. However, the license was surrendered, and the application has been treated as a new application.) Financing is based upon a loan from a cousin. All documentation has been submitted with the exception of the following:

- a. Financial check on Makram Ayad Mikheal.

Discussion/Action Taken:

Mr. Adry Tawfik was present at the meeting. Director Elks reviewed the application to the Commissioners and recommended approval pending receipt of the financial check on Makram Ayad Mikheal. Commissioner Mathews made a motion to approve the application upon receipt of the documentation. Commissioner Bond seconded the motion and it was approved with 2 ayes.

**3. JACKSON DOWN LIQUORS
Nashville, Tennessee (Davidson County)**

Licensee: I-40 Liquors, Inc.
Stockholders: Joseph Hobbs and John C. Hobbs
Applicant: Julia Elizabeth Hobbs

Before the Commission is a request for a transfer of stock from Joseph Hobbs and Elizabeth Hobbs. At some point prior to April 29, 2004, Joseph Hobbs transferred his 51% ownership and his corporate office as President to Elizabeth

Hobbs as a gift without knowledge or approval from the TABC. A request was made for information regarding the transfer of ownership; however, none was forthcoming until January, 2005. A citation has been issued for the violations, but has not yet been paid. All documentation has now been furnished.

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners. Director Elks recommended the approval of the transfer of the 51% to Elizabeth Hobbs. Commissioner Bond made a motion to approve the transfer of the stock. Commissioner Mathews seconded the motion and it passed with 2 ayes.

**4. MARYLAND FARMS WINE & SPIRITS
Brentwood, Tennessee (Williamson County)**

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| Applicant: | Maryland Farms Wine & Spirits, LLC |
| Members: | John Cooper |

Before the Commission is a request for a new retail store to be located at 101 Creekside Cross, Suite 700 in Brentwood, Tennessee. Mr. John Cooper intends to operate the business as a LLC, with himself as the sole member. He intends to initially invest approximately \$750,000, which has been obtained from personal funds and a line of credit from First Tennessee Bank. All documentation has been submitted with the exception of the following:

- a. Deed to Maryland Commons, LLC;
- b. Bank Credit Check;
- c. Questionnaire for Collette Meehan; and
- d. Letter of Waiver of Hearing amended to reflect Applicant's name.

Discussion/Action Taken:

Mr. John Cooper and Hank Hildebrand, Attorney, were present at the meeting. Director Elks reviewed the application for the Commissioners and recommended approval pending the submission of the Bank Credit Check, Use and Occupancy, TABC Inspection and Acknowledgment of the Rules and Regulations. Commissioner Bond made a motion to approve the application upon submission of the requested documents. Commissioner Mathews seconded the motion and it was approved with 2 ayes.

**5. LIQUOR LOCKER
Tullahoma, Tennessee (Coffee County)**

Licensee: Liquor Locker, Inc.
Stockholders: Joe Sharp and Wanda Noblett
Applicant: Liquor Locker, Inc.
Stockholders: Tom Sharp and Wanda Noblett

Before the Commission is a request to transfer stock ownership for the retail store located at 110 West Hogan Street in Tullahoma, Tennessee. The previous stockholders for the corporation were Joe Sharp and Wanda Noblett. Mr. Sharp died in January, 2003. The TABC was notified of Mr. Sharp's death, and his will has just recently been probated. Mr. Tom Sharp has inherited his father's interest in the store. All documentation has been submitted.

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and recommended approval. Commissioner Bond made a motion to approve the application transfer of the stock. Commissioner Mathews seconded the motion and it passed with 2 ayes.

**6. TENNESSEE DICKEL
Tullahoma, Tennessee (Coffee County)**

Applicant: Tennessee Dickel Distilling Company

Before the Commission is a request for a new retail store to be located at the George Dickel Distillery, 1950 Cascade Hollow Road in Tullahoma, Tennessee. T.C.A. §57-3-204 allows a manufacturer to obtain a retailer's license if located on the distillery. The distinction between a manufacturer's retail store and any other retail store is that a manufacturer's retail store may only sell such products that are manufactured at the distillery and must be sold in special novelty decanters in a 750 ml size only. All documentation has been submitted with the exception of the following:

- a. Deed;
- b. Use and Occupancy permit;
- c. List of stockholders with greater than 5% interest with questionnaires.

Discussion/Action Taken:

William Cheek was present at the meeting. Director Elks reviewed the application for the Commissioners and recommended approval subject to the submission of the pending documents. Commissioner Bond made a motion to approve the application upon submission of the requested documents. Commissioner Mathews seconded the motion and it passed with 2 ayes.

**7. AAA PACKAGE STORE
Johnson City, Tennessee (Washington County)**

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| Licensee: | AAA Package Store, Inc. |
| Stockholder: | Shirley Cloyd |
| Applicant: | AAA Package Store, Inc. |
| Stockholder: | Ahmed Usso |

Before the Commission is a request to transfer one hundred percent of the stock in AAA Package Store, Inc. from Shirley Cloyd to Ahmed Usso. This business is located at 910 Market Street in Johnson City, Tennessee. Mr. Usso intends to purchase the stock in the corporation for \$50,000 plus the cost of inventory (total purchase price of \$130,000) and continue to operate the business in the current corporation's name. Financing is based upon personal funding and the sale of an existing business. All documentation has been submitted with the exception of the following:

- a. Use and Occupancy Permit;

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and recommended approval pending the submission of the Use and Occupancy Permit. Commissioner Bond made a motion to approve the application upon submission of the requested document. Commissioner Mathews seconded the motion and it passed with 2 ayes.

3. WHOLESALE MATTERS

**A. ALEXSEY'S IMPORTS
Nashville, Tennessee (Davidson County)**

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| Licensee: | Alexi Khimenko |
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Before the Commission is a request to transfer location from 2825 Dogwood Place, Suite B, in Nashville, Tennessee to 3628-B Trousdale Drive also in Nashville, Tennessee. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Use and Occupancy Permit.

Discussion/Action Taken:

Alexi Khimenko was present. Director Elks reviewed the application and recommended approval. Commissioner Mathews made a motion to approve the application. Commissioner Bond seconded the motion and it passed with 2 ayes.

4. CONTESTED CASES—(Continued)

A. SCOTT A. WEIGANDT

Mr. Weigandt has appealed the decision of TABC staff denying his application for a server permit, and hereby requests a hearing. TABC staff denied Mr. Weigandt's application for a permit based on a conviction for the possession of schedule 2 controlled substances with intent to sell. T.C.A. §57-3-704 prohibits the issuance of a server permit to anyone who has been convicted of any crime relating to the sale of schedule 1 or 2 controlled substances within eight years of the date of the application.

Discussion/Action Taken:

Mr. Bob Delaney, Attorney, was present. Mr. Delaney asked that the matter be continued to the April or May Meeting. Mr. Delaney stated that Senator Cohen has introduced, as of February 3, a Bill that would amend the 8 year prohibition on individuals that had been convicted of a felony. That felony would prevent them from serving alcoholic beverages. This Bill would provide that after 4 years, if an applicant could demonstrate that they are rehabilitated, in that they have good moral character from the date of the conviction, that the Commission could approve the server permit. Commissioner Mathews made a motion to continue this matter. Commissioner Bond seconded the motion and it passed with 2 ayes.

B. PHILLIP SADLER

Mr. Sadler has appealed the decision of TABC staff denying his application for an employee permit, and hereby requests a hearing. TABC staff denied Mr. Sadler's application for a permit based upon a conviction for the sale of alcoholic beverages to a minor in May, 2004. T.C.A. §57-3-703 prohibits the issuance of an employee permit to anyone who has been convicted of any crime involving the sale or distribution of alcohol over the previous eight (8) years of the date of the application.

Discussion/Action Taken:

Director Elks reviewed the application for an employee permit. Director Elks stated that she has not had any comments from Mr. Sadler and has not received any documentation from Mr. Sadler indicating that he was able to get his record expunged. Director Elks made a motion that the Commission enter a Default Judgment because Mr. Sadler was not present and he was aware that this matter would be heard this month and would request a default judgment be entered so that the Commission could hear this matter and make a decision. Commissioner Bond made a motion that we consider Default Judgment. The Commissioners seconded the motion and it passed with 2 ayes.

C. CHRISTOPHER PITTS, SR.

Mr. Pitts has appealed the decision of TABC staff denying his application for a server permit, and hereby requests a hearing. TABC staff denied Mr. Pitts' application for a permit based on a felonious conviction in May, 2002, for the conspiracy to sell cocaine, schedule 2 controlled substances. T.C.A. §57-3-704 prohibits the issuance of a server permit to anyone who has been convicted of any crime relating to the sale of schedule 1 or 2 controlled substances within eight years of the date of the application.

Discussion/Action Taken:

Christopher Pitts, Sr. was present at the meeting. Assistant Director Carolyn Smith reviewed the application to the Commissioners. Assistant Director Smith recommended this matter be continued to the June meeting to allow the conviction be expunged from his record. Director Elks stated that since his server permit had expired, he would not be able to keep working in a server's capacity. Commissioner Mathews made a motion to continue this matter till the June meeting. Commissioner Bond seconded the motion and it passed with 2 ayes.

- 5. WINERY**
- 6. SPECIAL OCCASION LICENSES**
- 7. CONSUMER EDUCATION SEMINAR LICENSES**
- 8. PERSONNEL** - Frank Bolyard was promoted to Information Resources Support Specialist 2. Kim Mitchell was hired as Administrative Assistant 1 in the Nashville Office. Director Elks stated that they have been interviewing for agent positions in the Memphis and Knoxville offices. Interviews are scheduled for the Chattanooga office for an agent position for March 18.
- 9. BUDGET**
- 10. CONSENT ORDERS**
- 11. PENDING MATTERS LIST**
- 12. MISCELLANEOUS**
- 13. DATE OF NEXT MEETING** – March 17, 2005 and April 21, 2005

There being no further business the meeting was adjourned.

Shari Danielle Elks
Executive Director

John A. Jones
Chairman